

FILED

MAY 3 2007

CLERK, U.S. DISTRICT COURT

By _____ Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

R. B. BROWN

Petitioner,

§

vs.

NATHANIEL QUARTERMAN, Director
Texas Department of Criminal Justice
Correctional Institutions Division
Respondent.

§

§

§

§

§

No. 3-06-CV-1821-K

ORDER OF THE COURT ON THE FOREGOING RECOMMENDATION

Considering the record in this case and the above recommendation, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the Court hereby finds and orders:

IFP STATUS:

(X) the party appealing is GRANTED *in forma pauperis* status on appeal.
 () the party appealing is proceeding *in forma pauperis*.
 () the party appealing is DENIED *in forma pauperis* status on appeal
 for the following reasons:
 () the Court certifies, pursuant to Fed. R. App. P. 24(a) and 28 U.S.C. § 1915 (a)(3), that
 the appeal is not taken in good faith. In support of this finding, the Court adopts and
 incorporates by reference the Magistrate Judge's Findings and Recommendation entered
 in this case on _____. Based upon the Magistrate Judge's findings,
 this Court finds that the appeal presents no legal points of arguable merit and is
 therefore frivolous. *See Harkins v. Roberts*, 935 F. Supp. 871, 873 (S. D. Miss. 1996)
 (citing *Howard v. King*, 707 F. 2d 215, 219-20 (5th Cir. 1983)).
 () the person appealing is not a pauper;
 () the person appealing has not complied with the requirements of Rule 24 of the Federal
 Rules of Appellate Procedure and /or 28 U.S.C. § 1915(a)(1) as ordered by the Court.
 (See Notice of Deficiency and Order entered on _____).

COA:

() a Certificate of Appealability is GRANTED on the following issues: _____
 (X) a Certificate of Appealability is DENIED. The Court hereby adopts and incorporates by
 reference the Magistrate Judge's Findings and Recommendation filed in this case on March 14,
 2007, which were adopted by the District Court on March 28, 2007, in support of its finding that
 Petitioner has failed to make a substantial showing that reasonable jurists could conclude that
 the habeas corpus petition is not barred by the statute of limitations. *See* 28 U.S.C. § 2244(d);
Slack v. McDaniel, 529 U.S. 473, 120 S. Ct. 1595, 1602, 146 L. Ed. 2d 542 (2000).

SIGNED this 31st date of May, 2007.

 ED KINKEADE
 UNITED STATES DISTRICT JUDGE